

RESOLUTION TO PROVIDE INDEMNIFICATION TO CITY OFFICIALS AND EMPLOYEES FOR LIABILITY RESULTING FROM ACTS, OMISSIONS, OR NEGLIGENCE COMMITTED IN THE SCOPE OF EMPLOYMENT.

WHEREAS, the City of Abilene recognizes that City officials and employees need to have liability coverage from damage claims that arise from performing their duties; and

WHEREAS, the City Council is of the opinion that a formal indemnification policy should be established; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

Part 1: That the City Manager or his designee is authorized to pay up to and including \$50,000 as provided in Part 2, and hereafter:

- A. That the City Manager or his designee shall pay or deny claims up to and including \$10,000. Periodically the City Manager shall notify the Council of the status of claims of \$10,000 and under.
- B. That the City Manager or his designee shall pay or deny claims above \$10,000 and up to and including \$50,000 after:
 1. Notifying the Mayor and Council of the proposed payment. If any Council member or the Mayor requests formal Council consideration, the City Manager shall not pay the claim, unless the request for formal Council action is withdrawn. Upon request for formal Council consideration, no payment shall be made, unless a formal public vote in open city council session is made to settle the claim; and
 2. Notifying the City Attorney.

Part 2: That the payments authorized in Part 1 shall be on behalf of any City of Abilene official or employee, when an official or employee becomes legally obligated or by reason of their acts, omissions, or negligence, subject to the limitations in the next sentence.

The City of Abilene will pay only actual damages, court costs, and attorney's fees incurred or adjudged against an official or employee covered by this resolution. Damages must be based on an act, omission or negligence of the official or employee in the course or scope of his or her position of employment with the City of Abilene.

Part 3: That the City Council may approve payments in excess of \$50,000 by formal public vote in open city council session to settle the claims.

Part 4: That the City Manager or his designee and the City Council shall deny indemnification in the following circumstances:

Section A

The City shall not indemnify any official or employee to the extent that claimant's damages are insured under a contract of insurance or any other plan of self-insurance or risk retention authorized by statute.

Section B

No official or employee will be indemnified for any award of punitive damages against said official or employee.

Section C

No indemnity shall be provided for an act or omission on the part of an official or employee which, in the opinion of the City, constitutes gross negligence, official misconduct, or an act or omission made in bad faith, or acts constituting fraud, dishonesty, or a criminal act on the part of the employee seeking indemnity. Additionally, no indemnity shall apply to claims or other actions by the City against an official or employee.

Part 5: That the City Manager or his designee and the City Council reserve the right to refuse indemnification based upon the factual circumstances from which damages have arisen.

Part 6: That the City Attorney shall provide the legal representation necessary to carry out this policy unless, in the opinion of the City Attorney, there is a potential conflict of interest between the City and the official or employee, or the City Attorney believes that he is unable to adequately represent the City, in which case the City Manager may employ other legal counsel to defend the official or employee, after notifying the City Council of the decision.

If any Council member or the Mayor requests formal Council consideration, the City Manager shall not hire other legal counsel, unless the request for formal action is withdrawn.

Upon request for formal Council consideration, other legal counsel shall not be hired, unless a formal public vote in open City Council session is made to hire other legal counsel.

Part 7: When in the opinion of the City Attorney, there is a potential conflict and the employee or official has acted in a manner consistent with the policies, practices and/or customs of the City, the City Attorney, or other legal counsel hired by the City, may continue the defense of the official or employee and the City shall indemnify the employee, in lieu of hiring additional counsel to represent the employee or official.

Part 8: That if an official or employee hires an attorney to represent him/her without the consent and concurrence of the City Attorney, the City shall not pay nor reimburse said official or employee for the costs of representation, and the City reserves the right to refuse indemnification under such circumstances.

Part 9: That the City Attorney, City Manager, and the City Council reserve the right to refuse to defend an official or employee based upon the factual circumstances from which damages have arisen.

ADOPTED this 8 day of January A.D. 1987.

ATTEST:

Patricia Hancock
CITY SECRETARY

David Stubbeman
MAYOR

APPROVED:

Harvey Carzill
CITY ATTORNEY